

Environmental Protection Agency  
Region IX  
215 Fremont St.  
San Francisco, Ca. 94108

CERTIFIED MAIL NO. 936735  
RETURN RECEIPT REQUESTED

In Reply E-4-3  
Refer to: ENF 3-5-3

30 JAN 1978

E. G. Gregory, Administrator  
Division of Environmental Protection  
Nevada Department of Conservation and Natural Resources  
Capitol Complex  
Room 600, Kin Read Building  
505 E. King Street  
Carson City, NV 89710

Dear Mr. Gregory:

This is in response to your letter of December 21, 1977 requesting delegation of authority for implementation and enforcement of the National Emission Standards for Hazardous Air Pollutants (NESHAPS) to the State of Nevada Department of Conservation and Natural Resources (NDCNR) on behalf of the Clark County District Health Department (CCDHD).

We have reviewed the pertinent laws of the State of Nevada and the regulations of the Clark County District Board of Health, and have determined that they provide an adequate and effective procedure for implementation and enforcement of NESHAPS by the NDCNR and the CCDHD. Therefore, we hereby grant delegation of NESHAPS to the NDCNR on behalf of the CCDHD as of the date of this letter as follows:

- A. Authority for all sources located in Clark County and under CCDHD jurisdictional authority which are subject to the NESHAPS (asbestos, beryllium, mercury and vinyl chloride) as promulgated in 40 CFR Part 61 and in effect August 23, 1977.

This delegation is based upon the following conditions:

1. Semi-annual reports will be submitted to EPA by the CCDHD through the NDCNR. Such reports shall include, as a minimum, the following information:

A. NESHAPS

1. Number non-transitory sources subject to NESHAPS.

2. Number of non-transitory sources subject to NESHAPS determined in compliance w/Standards or in compliance w/Waiver of Compliance.
  3. Number NESHAPS sources inspected.
  4. Number of enforcement actions taken against non-transitory NESHAPS sources.
  5. Number of spraying, demolition, and renovation operators whose compliance status has been investigated.
  6. Number of enforcement actions taken against violators of spraying, demolition, or renovation requirements.
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2. Enforcement of NESHAPS in Clark County will be the primary responsibility of the CCDHD and the NDCNR. If the CCDHD and the NDCNR determine that such enforcement is not feasible and so notify EPA, or where either the CCDHD or the NDCNR acts in a manner inconsistent with the terms of this delegation, EPA will exercise its concurrent enforcement authority pursuant to Section 113 of the Clean Air Act, as amended, with respect to NESHAPS sources within Clark County and under CCDHD jurisdictional authority.
  3. Acceptance of this delegation of NESHAPS does not commit the NDCNR and the CCDHD to request or accept delegation of future standards and requirements. However, delegation of additional NESHAPS standards or requirements, not hereby delegated, would require a new request for delegation.
  4. The CCDHD will at no time grant a variance from compliance with the CCDHD Regulations-Section 13 except as provided in this paragraph. Should the CCDHD grant such a variance, EPA will consider the source receiving the variance to be in violation of NESHAPS and may initiate enforcement action against the source pursuant to Section 113 of the Clean Air Act. The granting of such variances by the CCDHD shall also constitute grounds for revocation of delegation by EPA. If a source is found to be in violation of NESHAPS emission limitations, the CCDHD

or state should seek immediate correction of the violation. The hazardous nature of the substances regulated by NESHAPS dictates the need to see immediate compliance rather than granting a variance. However, should the CCDHD in the future amend Section 13 so as to make Section 13 more stringent than the Federal NESHAPS regulations, the CCDHD may grant variances from the more stringent CCDHD requirements if such variances do not relieve subject sources of the responsibility of complying with standards equally as stringent as those contained in the Federal NESHAPS regulations.

5. The CCDHD will utilize only the test methods specified in 40 CFR 61 current to the date of the test, in performing source tests pursuant to their NESHAPS regulations. Unless approved by EPA as acceptable for use as "alternative test methods" within the meaning of the Federal NESHAPS regulations, any use by the CCDHD of test methods to determine compliance with NESHAPS not in accordance with the terms and conditions of this delegation shall constitute grounds for revocation of delegation by EPA. Any questions, regarding current source test methods and "alternative test methods" shall be forwarded to EPA, Region IX.
7. The NDCNR and EPA will develop a system of communication sufficient to guarantee that each office is always fully informed regarding the current compliance status of subject sources within CCDHD's jurisdiction and regarding interpretation of applicable regulations.
8. If at any time there is a conflict between a State or a CCDHD regulation and a Federal regulation (40 CFR Part 61), the Federal regulation must be applied if it is more stringent than that of the State or CCDHD. In the event of such a conflict, if either the NDCNR or the CCDHD determines that it is unwilling or unable to apply the more stringent Federal regulation, it will so notify EPA. EPA, in consultation with the NDCNR and the CCDHD, will then modify or revoke the terms of this delegation to the extent it determines to be appropriate.
9. If the Regional Administrator determines that a NDCNR or CCDHD procedure for enforcing or implementing

NESHAPS is inadequate, or is not being effectively carried out, this delegation may be revoked in whole or in part. Any such revocation shall be effective as of the date specified in a Notice of Revocation to the NDCNR.

10. As of the date of this delegation, sources subject to the Federal NESHAPS located within Clark County and under CCDHD jurisdictional authority are required to submit all reports pursuant to NESHAPS to the CCDHD and to EPA, Region IX.

A Notice announcing this delegation will be published in the Federal Register. The Notice will state, among other things, that, effective immediately, all reports required pursuant to the Federal NESHAPS by sources located within Clark County and under CCDHD jurisdictional authority shall be submitted to the CCDHD office at 625 Shadow Lane, Las Vegas, Nevada 89106, as well as to EPA, Region IX.

Since this delegation is effective immediately, there is no requirement that the NDCNR notify EPA of its acceptance. Unless EPA receives from the NDCNR written notice of objections within 10 days of the date of receipt of this letter, the NDCNR and the CCDHD will be deemed to have accepted all the terms of the delegation.

Sincerely,

Original signed by:

Paul De Falco, Jr.

Paul De Falco, Jr.  
Regional Administrator

cc: Nevada Department of Conservation and Natural  
Resources, Environmental Protection Division  
Clark County District Health Department, Air  
Pollution Control Division

bc: S-1  
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E-4-1

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